

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

EUGENE RODNEY RUSH

PETITIONER

vs.

CIVIL ACTION No.: 3:16-CV-971-HTW-LRA

WILLIAM SOLLIE

RESPONDENT

ORDER ADOPTING REPORT AND RECOMMENDATIONS

BEFORE THIS COURT are two (2) interrelated motions: the respondent's Motion to Dismiss [**Docket no. 14**]; and the Report and Recommendation of the United States Magistrate Judge Linda Anderson [**Docket no. 19**]. In her Report and Recommendation, filed on September 6, 2017, Magistrate Judge Anderson recommended that the respondent's Motion to Dismiss [**Docket no. 14**] be GRANTED and then ordered that the *pro se* prisoner plaintiff had fourteen (14) days to object to the Report and Recommendation. The plaintiff has failed to do so.

Based upon arguments of counsel in the Motion to Dismiss [Docket no. 14] and the findings and recommendation contained in the Report and Recommendation [Docket no. 19], this court finds it well-taken. Therefore, the Report and Recommendation of the Magistrate Judge is hereby **ADOPTED** as the order of this court.

Further, this order hereby **DISMISSES** this lawsuit **WITHOUT PREJUDICE**. The parties are to bear their own costs.

A final order adverse to the applicant having been filed in the captioned habeas corpus case, in which the detention complained of arises out of process issued by a state court or a proceeding pursuant to 28 U.S.C. § 2241, the court, considering the record in the case and the requirements of 28 U.S.C. § 2253, Rule 22(b) of the Federal Rules of Appellate Procedure, and

Rule 11(a) of the Rules Governing Section 2241 Cases in the United States District Courts, hereby finds that:

A Certificate of Appealability should not issue. The applicant has failed to make a substantial showing of the denial of a constitutional right.

SO ORDERED AND ADJUDGED this the 18th day of October, 2017.

s/ HENRY T. WINGATE
UNITED STATES DISTRICT COURT JUDGE

Order Adopting Report and Recommendation
Rush v. Sollie
3:16-cv-971-HTW-LRA